

## REMARKS

Claims 1-16 are pending. Claims 10-16 are allowed. Claims 1-9 are rejected. Claim 17 has been added. Claim 5 has been canceled. Claim 10 has been amended.

Claims 1-4 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 4,388,076 to Waters. Applicant traverses the rejection.

Waters describes a stylet 24 having a steel wire body 26, the distal end 28 of which is formed into a hook or ball 32. Col. 2, lines 15-27. The proximal end 32 of the wire 26 is formed into a hook 32, which engages the inside wall 34 of a hollow plug 36 that has been placed inside a connector 38. Col. 2, lines 15-30. The stylet 24 does not comprise a wire 26 that is connected to the distal end of the connector 38. Rather, the wire 26 is formed into a hook (FIG. 4), which engages the inside wall of a plug 36 inside connector 38. Col. 2, lines 15-20.

Waters does not anticipate amended claim 1. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987); MPEP 2131. Here it is clear that each and every element of claim 1 is not set forth in Waters. Claim 1 is directed to an endotracheal tube retainer that comprises a solid, semi-rigid stylet rod that is connected at its distal end to a connection adapter. With reference to Figure 4 of Waters, Waters does not describe a device that comprises a connection adapter that is connected to the distal end of a stylet rod. The wire 26 described in Waters engages the inside wall 34 of a hollow plug 36 that has been placed inside of a connector 38. Since Waters fails to describe the endotracheal tube retainer of amended claim 1, it is respectfully submitted that claim 1 is not anticipated by Waters.

In addition, the claimed endotracheal tube retainer must be adapted to allow a sufficient amount of force to be exerted through the stylet rod and connection adapter to resist the tendency of the endotracheal tube to withdraw from the laryngeal opening. It is submitted that the wire 26 of Waters lacks the structural integrity to allow a sufficient amount of force to be exerted therethrough to resist the tendency of the endotracheal tube to withdraw from the laryngeal opening. The wire 26 is clearly too thin to be capable of allowing enough force to be exerted therethrough to prevent withdrawal of the tube. Therefore, Applicant requests that the rejection of amended claim 1 under 35 U.S.C. §102 (b) be withdrawn.

Claims 2-6 depend from amended claim 1, and therefore, incorporate all of the subject matter of therein. Since it is submitted for the aforementioned reasons that amended claim 1 is patentable over Waters, it is likewise submitted that Claims 2-6 are patentable over Waters for the same reasons. Therefore, it is respectfully requested that the rejection of Claims 2-6 under 35 U.S.C. §102(b) be likewise withdrawn.

Claim 5 is rejected under 35 U.S.C. §103(a) as being unpatentable over Waters. Claim 5 has been canceled.

Claim 1 is rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 4,582,056 to McCorkle Jr. Applicant traverses the rejection.

McCorkle Jr. describes an endocardial lead extraction device that comprises flexible stainless steel stylet wires 9A that are connected to a screw tip 33. Col. 7, lines 40-44; Col. 8, lines 7-16. The wires 9A are adapted to fit within the inner channel 14 of the catheter 1, which is of slightly larger outside diameter than the insulating sheath of the endocardial lead 11 that is to be removed. Figure 1 and 3; Col. 8, lines 7-33; and Figures 8A-8C. The screw-tip 33 that is

attached to the end of the stylet wire 9A is adapted to engage the free end of the endocardial lead 11 that is to be removed to draw it into the chamber 14 of the catheter 1. McCorkle Jr. does not describe an *endo-tracheal tube* retainer that comprises a semi-rigid stylet rod that is secured to a connection adapter.

McCorkle Jr. does not anticipate claim 1. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987); MPEP 2131. Here, it is clear that each and every element is not set forth in McCorkle Jr. McCorkle Jr. describes an endocardial lead extraction device that is inherently too small to act as an endotracheal tube retaining element. With reference to the Declaration of Daniel J. Cook Under 37 C.F.R. §1.132, endocardial leads have an outer diameter (OD) of approximately 2.5-2.7, and an inner diameter (ID) that is less than approximately 1 millimeter (mm). Therefore, and with specific reference to Figures 8A-8C, the screw-tip 33 described must have an OD that is about 1-1.5 mm in order to facilitate engagement with the endocardial lead 11 that is to be removed. Figures 8A-8C. The screw-tip 33 is significantly smaller than the claimed connection adapter of the invention, which has at least one portion that has an OD in the range of about 2.0-14.0 mm. The McCorkle, Jr. device is simply too small to engage even the smallest endotracheal tube.

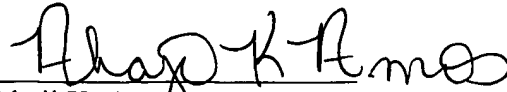
Since McCorkle Jr. fails to describe the claimed connection adapter, it is respectfully submitted that amended claim 1 is not anticipated by McCorkle Jr. Therefore, Applicant requests that the rejection of amended claim 1 as being anticipated by McCorkle Jr. under 35 U.S.C. §102 (b) be withdrawn.

Claims 6-9 are rejected under 35 U.S.C. §103(a) as being unpatentable over McCorkle, Jr. in view of U.S. Patent No. 5,579,762 to Lee. Applicant traverses the rejection and submits that the Examiner has again failed to make a *prima facie* case of obviousness of Claims 6-9.

New claim 17 is submitted to be patentable for all of the reasons stated above.

Applicant believes that the arguments asserted and the amendments presented herein place all of the pending claims in condition for allowance. If the present amendments and arguments do not place the application in condition for allowance, the Examiner hereby requests an interview with the Examiner. It is respectfully requested that the Examiner contact the Applicant's undersigned attorney by telephone at (314) 872-8118 to schedule an interview.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ahaji K. Amos". The signature is fluid and cursive, with the first name "Ahaji" being more prominent.

Ahaji K. Amos

Polster, Lieder, Woodruff & Lucchesi, L.C.

Registration No.: 46,831

12412 Powerscourt Drive, Suite 200

Saint Louis, MO 63131-3615

314-238-2400

314-238-2401 (fax)